IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4026 of 1997

with

SPECIAL CIVIL APPLICATIONS No 4027, 4028, 4030, 4031, 4032 and 4033 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANUBHAI ATMARAM PATEL

Versus

V H SHAH

Appearance:(In all the special civil applications)

MS NYATI PUJ for Petitioner

MR MA BUKHARI, AGP, for Respondent No. 1

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/07/2000

ORAL JUDGEMENT

1. As in all these special civil applications, identical questions of law and facts arise, the same are taken up for hearing together and are being disposed of by this common order.

2. All the petitioners were elected as Councillors of Kadi Municipality. They were ordered to be removed from the office of the Councillor by respondent No.1, which order gave rise a cause to all the petitioners to file these petitions.

3. Learned counsel for the respondent No.1 states that the term of the elected body of the Kadi Municipality has come to an end on 10th January, 2000. Thereafter, fresh election of the Councillors of Kadi Municipality has already been held and new Body has taken charge of the Municipality. He states that in view of the subsequent development which has taken place during the pendency of these special civil applications, all these special civil applications have become infructuous.

4. The counsel for the petitioners states that as a result of this order which has been passed by the respondent No.1 which has been challenged by the petitioners in these special civil applications, it is not a case only of removal of the petitioners from the office of the Councillor of Kadi Municipality but they were further disqualified to contest the election for two years, meaning thereby, the petitioners in case these petitions are dismissed only on the ground that the same have become infructuous, would be deprived of their right to contest the election.

5. The order impugned in these special civil applications has been stayed by this Court, meaning thereby, none of the petitioners incurred any disqualification to contest the election. Nobody is though in a position to give the correct situation but there may be possibility that some of the petitioners or all the petitioners would have contested the election and they would have won or lost the election. Where the petitioners who contested the election and lost, there is no difficulty of any further incurring of this disqualification but the petitioners who contested the election and won the same, in case their petitions are dismissed may cause difficulty to them as their well-wishers may use the same to declare them disqualified as Councillor.

6. However, the fact remains that the term of the

Municipality has already expired and fresh elections have taken place. All these special civil applications are dismissed as having become infructuous. Rule discharged. Interim relief granted stands vacated. However, liberty is granted to the petitioners for revival of these special civil applications, in case of any difficulty. No order as to costs.

****

zgs/-